

ON TRACK WITH MDT

November 2002

In last month's column, I wrote, "...there are times when Montana's public, our customers, may see things that are hard to understand and that MDT management may or may not be aware of, especially when such practices impart the impression that we really don't care about cost savings. I want that to change. Therefore, if you see something that does not make sense, please write or email us at mdtquestions@state.mt.us

Answers to your questions will be posted on MDT's web site and may be used for future *On Track with MDT* articles. Taking the time to ask questions will not only call attention to practices that may need to be changed, but will also benefit you and help you understand the issues we are trying to address. Together, we can improve service delivery to Montana's transportation users." I look forward to hearing from you.

In that vein, I thought it might be helpful to look at the difference in the way we administer consultant design contracts compared to construction contracts. As you know, construction contracts are awarded to the lowest bidder, and consultant design contracts are not. The reason? They're governed by two different Montana laws.

Construction contracts are governed by the "Competitive sealed bidding" section of the Montana Procurement Act (Section 18-4303, MCA). Selecting consultants to provide engineering services on MDT projects is a qualifications-based process, with a 5% preference for location (usually determined by proximity to the project). The governing Montana law (§ 18-4-201 et seq., MCA) is based on the "Brooks Act" in federal law (Section 40-10-VI, U.S.C. para 541-544).

This Act requires that contracts be advertised, and interested companies ranked based on the advertised criteria for competence and qualifications. We enter into negotiations with the top-rated firm. If we can't agree on a fair and reasonable price, we can then begin negotiations with the next highest qualified firm.

All consultant selection decisions are made by the Consultant Selection Board using majority vote. The Board normally includes five voting members: our Deputy Director, Chief Engineer, Preconstruction Engineer and Consultant Design Engineer, and a District Administrator or Bureau Chief.

Depending on the type of project, and whether or not additional input is necessary, others may be invited to take part in the Board's meetings, for example, local government officials, county commissioners, and city engineers.

As approved by the Federal Highway Administration, our Consultant Selection Procedures allow for two separate selection processes: the annual Pre-qualification process and the two-part Request for Proposal (RFP) process. The Pre-qualification process is used for most consultant selections. In effect, it allows us to take care of the first part of the RFP process ahead of time, so that as the need arises, we can quickly contract with consultants to accomplish the necessary work. The RFP process is generally reserved for large, complex projects or projects that deviate substantially from the "typical" design project.

The yearly **Pre-qualification** process begins with a solicitation for proposals related to various engineering disciplines, such as road design or traffic engineering. Proposals received are rated as follows: quality of firm and personnel (30%), capability and

capacity of firm (35%), and record of past performance (30%). The remaining 5% is incorporated later, after project needs have been identified, and location can be factored in.

The ratings are compiled for each discipline and the consultants are ranked on a roster. The Consultant Selection Board then uses the discipline-specific rosters to select consultants for projects throughout the year. As the need for projects come up, the Consultant Selection Board short-lists three consultants from the appropriate pre-qualified roster and selects one with which to enter contract negotiations.

The selection is made based on the basis of the consultant's experience, personnel qualifications, previous performance, and location (5% max).

The obvious benefit of this pre-qualification process is that it greatly speeds up the time required to select consultants, particularly when a large number of projects is involved.

The Board exercises judgment in deciding on whether the Pre-qualification process will be used for the year or not. This process has been used every year since 1999, and as long as we continue to have an aggressive construction program, I anticipate we'll continue to use the Pre-qualification process.

The two-part **Request For Proposal** process, then, is used to select consultants for specific design projects. The first part involves soliciting proposals using two mechanisms: newspaper advertisement in eleven major Montana newspapers and letters to consultants who've requested to be on the mailing list.

The responses are rated on the same criteria as the pre-qualification process: quality of firm and personnel (30%), capability and capacity of firm (35%), record of past performance (30%), and firm's location (5%).

In the second part of the RFP process, we ask the top-rated consultants to provide final proposals. These are rated according to the following criteria: identification of project-specific issues (25%), firm's proposed approach (25%), clarity of response and understanding of MDT requirements (25%), and organization of work plan (25%). The Consultant Selection Board uses the final rankings to select a firm for contract negotiations.

If only one consultant submits a proposal, the Board exercises judgment based on the score to ascertain the quality of the response and understanding of the project, and votes whether or not to proceed to the negotiation stage.

If you have any questions, please contact Tom Martin at tomartin@state.mt.us or (406) 444-9252. To be added to our consultant mailing list and receive notifications regarding the Pre-qualification process and RFPs, please send a completed Federal Form 254 to:

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Preconstruction Bureau
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What underscores this process is a desire to provide the taxpayers with the biggest bang for their buck. In this case, it's not measured by the lowest bid, but by other factors that indicate we'll end up with a quality product at a fair and reasonable price. Understanding the difference is part of staying "on track with MDT".

Dave Galt
Director